

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

CRIMINAL NO. 1:04CR74

UNITED STATES OF AMERICA

VS.

STEPHEN DALE McCLELLAN

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ORDER

**THIS MATTER** is before the Court on remand from the Fourth Circuit Court of Appeals for resentencing. ***United States v. McClellan*, 2007 WL 4302455 (4<sup>th</sup> Cir. Dec. 10, 2007).**

At the resentencing hearing held August 30, 2006, held pursuant to the Fourth Circuit's first remand of this case, the Court entered an Amended Judgment imposing a 36-month term of imprisonment and an Alternative Amended Judgment imposing 121 months imprisonment. **See Amended Judgment in a Criminal Case, filed October 2, 2006; Alternative Amended Judgment in a Criminal Case, filed October 2, 2006.** In the present remand, the Fourth Circuit vacated the Amended Judgment providing for the 36-month term of imprisonment and remanded

the case for resentencing in accordance with the Alternative Amended Judgment providing for the 121 months imprisonment. ***McClellan, supra.*** Because the Court previously pronounced both judgments on the record in open court, a new resentencing hearing will be unnecessary. **See Transcript of Sentencing Proceedings, filed November 21, 2006.**

**IT IS, THEREFORE, ORDERED** that the Clerk prepare an Amended Judgment providing for a sentence of 121 months imprisonment with all other terms and conditions set forth in the previous Alternative Amended Judgment remaining in full force and effect.

The Clerk of Court is directed to transmit this Order electronically to defense counsel, the United States Attorney, the United States Marshal, the United States Probation Office, the Warden at the correctional facility where Defendant is imprisoned, and via regular mail to the Defendant.

Signed: January 7, 2008



Lacy H. Thornburg  
United States District Judge

